

**To:** Costa, Dan[Costa.Dan@epa.gov]  
**From:** Kavlock, Robert  
**Sent:** Wed 6/7/2017 9:54:15 PM  
**Subject:** FW: 6/7 Research News Clips

More red versus blue

**From:** McGuinness, Moira  
**Sent:** Wednesday, June 07, 2017 4:35 PM  
**Subject:** 6/7 Research News Clips

### ***Administrator Pruitt/EPA General***

Canadian and US Scientists Unite to Fight Trump and Preserve Environmental Data Progressive.org

The head of the EPA was asked 10 times whether Trump believes in climate change. He didn't answer. *CNN*

Scott Pruitt (Sort Of) Answers Whether Trump Believes In Climate Change - HuffPost

'It's a simple question, Mr. Pruitt': Joe Scarborough grills EPA head over Trump's climate change ... - Business Insider

Joe Scarborough relentlessly grills EPA boss Scott Pruitt on Trump's climate change beliefs - The Week Magazine

Paris accord put US at disadvantage with China: EPA's Pruitt - Fox Business

EPA's Scott Pruitt blows smoke over coal jobs and climate: AP Fact Check - cleveland.com

EPA chief exaggerates growth of coal jobs by tens of thousands - ThinkProgress

Fact check: EPA Administrator Scott Pruitt and coal jobs USA TODAY

Trump's budget prioritizes polluters over people The Hill (blog)

Politico's Morning Energy

**TRUMP INFRASTRUCTURE TRAIN ROLLS ON:** Both EPA Administrator Scott Pruitt and Interior Secretary Ryan Zinke are expected to be on hand today as President Donald Trump heads down to the banks of the Ohio River. With an Ingram coal barge as a backdrop, Trump is expected to tout the role that inland waterways play in America's agricultural and energy exports. Infrastructure advocates often point out that it's the U.S.'s ability to get goods to market cheaply that allow us to beat out competitors. Zinke is expected to speak about energy dominance during the event as well.

### WHITE HOUSE: Ditching Paris had nothing to do with science [Climatewire](#)

Ever since U.S. EPA Administrator Scott Pruitt helped orchestrate the United States' withdrawal from an international climate accord backed by decades of scientific research, he has spent days deflecting dozens of questions about science.

The hosts of MSNBC's "Morning Joe" yesterday tried more than 10 times to get Pruitt to answer whether or not President Trump believes in climate change and whether that played any role in his decision to withdraw from the Paris Agreement.

"So the conversation about Paris — which at its core is about climate change and the world's impact, and human impact on it — you never raised that with president Trump in a meeting?" host Willie Geist asked Pruitt.

"The focus of the discussion was on the merits and demerits of what Paris sought to achieve," the EPA chief answered, adding, "The reason you're asking this question is to get away from the merits and demerits of the climate accord."

It was the closest any administration official has come to acknowledging what many observers have suspected: Science did not play any role in the Paris withdrawal decision.

Asking if the president believes what hundreds of federal climate scientists across multiple agencies could easily summarize is not an insignificant question. The Paris accord was crafted around the best current understanding of rising global temperatures, with dozens of peer-reviewed studies underpinning the agreement. But Trump didn't mention science once in his Rose Garden speech announcing America's withdrawal, even to dismiss it as a "hoax" as he has in the past. Administration officials in subsequent interviews also dodged questions on the science.

John Holdren, the former science adviser to President Obama, described it as avoidance with a purpose.

"I think they have found they haven't been doing that well in attacking the science," he said, adding, "I think they have probably decided to keep ignoring the science and just keep hammering on this notion that Paris was a bad deal."

### **Are 'red teams' around the corner?**

There is no public indication that scientists were involved at all with the administration's decision to walk away from the Paris Agreement, said Rush Holt, CEO of the American Academy for the Advancement of Science and a former Democratic congressman.

"Traditionally, when politicians or ordinary folks ignore science, they do it with a certain amount of embarrassment because they know they shouldn't ignore it," he said. "I don't hear any sense of

embarrassment; they don't seem to have any sense of what they're missing by not having scientific evidence presented to them."

In another interview, Pruitt suggested he wants to go further than simply ignoring science. Appearing on conservative Breitbart radio on Monday, the EPA chief seemed to agree with host Joel Pollak's assertion that carbon dioxide isn't a pollutant that should be regulated by Pruitt's agency. He also brought up the notion of a federal science review, called "red teams," a concept that is supported by climate skeptics seeking to introduce more doubt around the science and is used for military maneuvers at the Department of Defense.

Pruitt said the country needs a "true, legitimate, peer-reviewed, objective, transparent discussion about CO2."

"The American people need to have that type of honest, open discussion, and it's something we hope to provide as part of our leadership," he said.

The notion of red teams was first broached in March by two prominent skeptics who were invited to testify before the House Science, Space and Technology Committee. Conservative lawmakers embraced the concept, which critics say is intended only to create a false sense of uncertainty around basic climate science.

Pruitt's comments are the first time a Trump Cabinet member has voiced public support for deploying red teams in science.

The notion that the climate science underpinning the Paris Agreement needs to be reviewed shows the ignorance of politicians who don't care how science works, said Holdren, who noted that all legitimate science is already peer-reviewed. The U.N. Intergovernmental Panel on Climate Change assessments faced what was essentially the most significant red team ever, which is intense scrutiny among the world's top scientists and industry officials.

"Nobody has been able to find a major flaw in mainstream climate science; nobody has been able to find an alternative explanation for what's changing the climate other than the buildup of greenhouse gases produced by human activities in the atmosphere, which perfectly fit in magnitude, in fingerprint and in timing what is being observed," Holdren said.

#### **Happer: White House 'could use' science advice**

The administration has not simply ignored science in the last 100 days, however. Trump's budget proposal suggested cutting billions of dollars in federal research, with a particular emphasis on climate science.

The rationale goes beyond any argument for greater efficiency and actually suggests cutting off the Earth-observing functions of satellites already in orbit.

Of 46 key federal science posts, Trump has nominated people for seven, *The Washington Post* reported yesterday. That includes, most notably, the science adviser and the leader of the Council on Environmental Quality, even though the names floated publicly for both of those positions include climate skeptics with links to the fossil fuel industry.

Even Trump's possible science adviser, Princeton University physics professor William Happer, said the president needs to incorporate science into his decision.

Happer is a staunch critic of the Paris deal and praised the president's "leadership" in dropping out, but

said science also plays a role in numerous parts of the federal bureaucracy, including defense and innovation.

"I think they could use some science advice," said Happer, who met with Trump before his inauguration. "There are many areas in the U.S. where science and technology are important, and I believe this administration understands that."

### **SCIENCE: Trump has nominees for just 15% of top research posts Greenwire**

As of yesterday, President Trump has announced nominees for seven — or 15 percent — of the 46 top science posts in the federal government that require Senate confirmation.

In light of Trump's decision to pull out of the Paris climate agreement, this failure to fill top science jobs across the federal government has become even more pointed.

Since Trump has not appointed a presidential science adviser, it is unclear whom he would consult for climate change advice.

He also has not appointed anyone to lead the National Oceanic and Atmospheric Administration, a lead agency that focuses on climate change science. Nor has he appointed a chair of the White House Council on Environmental Quality.

At this point in President Obama's administration, he had formally announced nominees for 25 of the posts (Chris Mooney, Washington Post, June 6). — CS

### **COAL: Pruitt says coal losses make the grid vulnerable. Not really Climatewire**

U.S. EPA chief Scott Pruitt and President Trump have appeared on national television to warn Americans that if coal power continues to decline, the lights could go out.

But real-life examples and an expansive body of research by grid operators, engineers, nongovernmental organizations and scientists suggest that's an exaggeration. Yesterday, Pruitt said if the share of coal use falls below 30 percent nationally, it could expose the United States to terrorist attacks.

"When we're at less than 30 percent or right at 30 percent today, that creates vulnerabilities to attacks on infrastructure," Pruitt said yesterday on MSNBC's "Morning Joe," without specifying what kind of threats he meant.

"As we generate electricity in this country, it is not a wise thing to limit the number of resources. It creates vulnerabilities. We need more diversity from coal, natural gas, oil, hydro, nuclear, across the board," he continued.

Trump, in his announcement that the United States would exit the Paris Agreement, said renewable growth could put the country "at grave risk of brownouts and blackouts" (Climatewire, June 2).

EPA did not respond to requests to provide Pruitt's sources on this issue. But both statements align with a broader theme from the administration and an upcoming Department of Energy study about whether renewable power is causing problems for coal and nuclear and jeopardizing grid reliability.

"The impression I got was that he's using exactly the same language about vulnerability for plants that don't have on-site fuel, and that we're somehow losing diversity," said Sue Tierney, a senior adviser with the Analysis Group and a former assistant secretary for policy at DOE. "Ironically, of course, the system is getting so much *more* diverse."

Nonpartisan grid professionals acknowledge that there are important conversations to have about securing the grid from external threats unrelated to the fuel mix and about controlling costs and handling more complex generation schedules while transitioning to greener power.

They aren't as worried about having enough power as the country moves away from coal. They say their extensive planning processes will ensure against outages.

### **'Unreliable' power?**

Coal power has been on the wane, falling to about 30 percent of U.S. electricity last year, down from closer to 44 percent half a decade ago. Experts widely agree coal plants have closed mostly because natural gas has been so cheap.

Pruitt, however, thinks the downturn is a problem for the grid.

He argues coal is good because plants can keep stockpiles on-site. During extremely cold weather, natural gas generators in some regions have had trouble getting fuel because they didn't have steady contracts. But coal trains have also been unable to deliver in similar situations.

Renewables, on the other hand, don't pose fuel transportation problems. It's true that they can't generate all day, every day, but grid organizers are finding new ways to integrate higher amounts of them anyway.

When coal plants shut down, utilities and grid operators make plans to replace their power.

Some of them have also looked at expanding their markets so that if they face shortages, they can acquire power from neighbors.

Mike Jacobs, a senior energy analyst with the Union of Concerned Scientists, explained that when power providers can buy from a larger pool, they don't have to keep as many facilities waiting at the ready in case of an emergency.

"The guys who are making the statements that you can't do it without the old ways aren't in the business of figuring out how to do it," he said.

Power outages most often occur because of bad weather or power line failures, not plant closures, Jacobs pointed out in a [blog post](#).

Conservative interest groups contend that renewables, and declining coal use, pose risks.

The Institute for Energy Research's Travis Fisher, in a [report](#) in 2015, argued that renewables are pushing traditional fuels, which he said were more reliable, offline. Fisher is now leading the study at DOE.

IER highlighted that "access to reliable electricity is a fundamental part of American life."

"We may take it for granted, but when the power goes out, everything grinds to a halt," Fisher's report

said. "Inside the house, we lose everything, from the lights, heat pump, refrigerator, television and Internet to chargers for phones and computers. Outside, the stoplights and streetlights stop working. It's impossible to get any work done inside offices and in factories. In short, our daily lives depend on a reliable source of electricity."

As he explained, grid planners "go to great lengths to make sure the grid's delicate supply/demand balance is stable, not just minute to minute, but also five and 10 years into the future."

At the same time, he argued that the biggest threats to the grid are not natural disturbances or human attacks, but policies that "are shuttering unprecedented amounts of reliable power sources while simultaneously forcing increasing amounts of intermittent, unreliable power onto the grid."

### **Coal is 'irrelevant'**

Several regions are already making life work with very little coal.

Within the New England Independent System Operator, coal accounted for 2 percent of power generation in 2016.

"Coal is now largely irrelevant in New England," said Gordon van Welie, president and CEO of ISO New England. "How do we maintain resilience in New England if we don't have coal and everyone else says we need coal to maintain resilience? That just doesn't compute for me. So, for us, though, is the issue is we have enough resources to produce electricity whenever we need it. That's the market design objective. It's electricity on call."

The New York and California grids also generate close to no coal power, although they consume some.

In the Texas grid, operated by the Electric Reliability Council of Texas, a study by Brattle Group analysts found that continued coal plant closures wouldn't be a problem.

The National Renewable Energy Laboratory found that wind and solar could power 30 percent of the Eastern grid without reliability concerns (Greenwire, Aug. 31, 2016). Another NREL study discovered that the Western grid could reach 35 percent wind and solar if utilities coordinate better over bigger geographic areas and schedule power closer to real time.

California is hoping to get half of its power from renewables by 2030, meaning an additional 15,000 megawatts of renewable power, according to the California grid operator. The California Independent System Operator says rapid penetration of renewables is changing the way it operates but is manageable. A recent California ISO study argued that large-scale solar plants with the right technology can "mitigate the impact of its variability on the grid, and contribute to important system requirements more like traditional generators."

PJM Interconnection, the grid operator for the Mid-Atlantic and Midwest, said in a recent report that it could eliminate coal use without any reliability problems. The organization is not suggesting that would happen, however, and is continuing to explore what the implications would be for power costs.

When states were figuring out how to handle the Obama administration's climate standards for power plants, the Federal Energy Regulatory Commission also took an exhaustive look at the potential for outages under the regulation.

FERC essentially determined that the existing processes for ensuring reliability would be enough to avoid brownouts or blackouts.

Regulators said the Energy Department would also have authority under the Federal Power Act to give plants some leeway in the rare exception that they needed to stay online.

Just a few weeks ago, DOE used that authority to stall closing one unit at a coal plant in Oklahoma. John Moore, energy director at the Natural Resources Defense Council's Sustainable FERC project, called that "a perfect example of how, in a very narrow case, the existing law worked."

"Coal supporters are again returning to playing the reliability card because they don't have much left," Moore added.

## **ACE**

EPA's Scott Pruitt wants to set up opposing teams to debate climate change science Washington Post

Review of Auto Standards Raises Concerns From Former EPA Officials Morning Consult

Politico's Morning Energy

**OZONE DECISIONS PUSHED:** Pruitt announced late Tuesday he would delay deciding which areas of the U.S. do not meet the 2015 ozone standard, saying he needs another year to "consider completely" the states' suggestions "and to rely fully on the most recent air quality data," Pro's Alex Guillén reports. In letters to governors, Pruitt said "there is insufficient information" to act at this time.

**In response,** Sen. Shelley Moore Capito hailed Pruitt's decision: "State and local governments and employers across the country have had insufficient time to comply with the latest revisions to the ozone standards," she said. But environmental advocates hinted at litigation over the move. "The delay is flagrantly illegal as well as a direct assault on our right to breathe safe, clean air," John Walke, director of NRDC's clean air program, said in a statement.

Court seeks EPA defense of methane NSPS delay Inside EPA

June 7, 2017 -- 1:43 PM

A federal appellate court is asking EPA to quickly file a brief defending its administrative stay of several requirements of the Obama-era oil and gas methane standards after several environmental groups urged the court to block the pause -- the first legal test of a Trump action to roll back or revise greenhouse gas regulations.

In a June 6 order, the U.S. Court of Appeals for the District of Columbia Circuit set a June 15 deadline for EPA to respond to environmentalists' motion for a judicial stay of EPA's move to pause for 90 days several requirements of the methane new source performance standards (NSPS). Environmentalists then have until June 20 to file their reply defending a judicial stay.

The NSPS sets first-time limits on emissions of the potent GHG methane from oil and gas sources. EPA Administrator Scott Pruitt announced a reconsideration of some provisions of the rule, particularly its fugitive emissions monitoring requirements, in an April 18 letter to industry groups.

In a subsequent June 5 notice, he granted reconsideration of several additional portions of the rule and delayed for 90 days all provisions under reconsideration.

The rule has also been targeted for review and, if appropriate, suspension, revision or rescission by President Donald Trump's energy executive order. EPA initiated that broader review process April 3.

Environmentalists quickly challenged Pruitt's 90-day stay of the methane NSPS requirements. A coalition of groups -- including the Natural Resources Defense Council (NRDC), Environmental Defense Fund, Clean Air Council, Earthworks, Environmental Integrity Project and Sierra Club -- sued June 5, asking the D.C. Circuit for a judicial stay of Pruitt's administrative stay.

In the alternative, they urge the court to "grant the motion for summary disposition on the merits, and vacate EPA's unlawful administrative stay."

Environmentalists argue the administrative stay is unlawful because the provisions Pruitt has selected for reconsideration do not qualify for such proceedings under the Clean Air Act. And they charge Pruitt is attempting to use the reconsideration process to circumvent the rulemaking process they say he must undergo to repeal or revise the methane NSPS.

"'Reconsideration' is not the statutory vehicle for 'look[ing] broadly at the entire 2016 Rule,' as Administrator Pruitt says he intends to do here, . . . or for responding to [Trump's energy executive order], . . . and it plainly does not provide a legal basis for staying the Rule while the Administrator mulls its future," environmentalists wrote in their June 5 filing.

Environmentalists also pointed to an EPA proposal under White House review that calls for an "extension of stay," suggesting EPA intends to lengthen the stay indefinitely.

EPA on June 6 sent another proposal for White House review, this time indicating a "limited stay of certain requirements" of the methane NSPS, though it is unclear which requirements that proposal would target and how it relates to the pending "extension of stay" proposal.

## **AIR POLLUTION: Pruitt's quick strike on ozone roils greens, delights GOP** **Greenwire**

Earlier this year, Scott Pruitt had little to say about U.S. EPA's 2015 ozone standard during his Senate confirmation process for becoming the agency's administrator.

But he made his position clear late yesterday by abruptly announcing his decision to delay for a year attainment designations with the 70 parts per billion threshold, accompanied by a suggestion that more changes are in the works.

"I have determined that there is insufficient information, and taking additional time is appropriate in order to consider completely all designation recommendations provided by state governors ... and to rely fully on the most recent air quality data," Pruitt wrote in a letter to states.



In response to congressional direction, Pruitt has also created an Ozone Cooperative Compliance Task Force that will develop "additional flexibilities" for states to comply with the standard for the precursor of smog.

The delay, which environmental groups quickly denounced as an illegal breach of Clean Air Act deadlines, means EPA won't make final attainment designations for the 2015 standard until next year, instead of this October. For areas deemed in "nonattainment," the designation starts the clock on regulatory efforts to bring them into compliance, often by curbing emissions from factories, cars and other sources.

For green organizations, Pruitt's decision also represents a broader attack on the pollution law's emphasis on protecting public health. Ozone is a lung irritant that can help trigger asthma attacks in children and worsen emphysema symptoms.

"The most important thing is the crass lack of care about what happens with your kids, with my kids," Ann Weeks, legal director for the Clean Air Task Force, a Boston-based advocacy group, said in an interview.

Applauding Pruitt's move were industry trade groups who have long lobbied for a delay, partly on the grounds that significant chunks of the country have not yet met the previous 75 ppb standard, set in 2008.

"This is welcome regulatory relief for manufacturers, who are working hard to comply with the 2008 and 2015 ozone standards but run the risk of falling into "no grow zones" if their states do not reach the 2015 levels quickly enough," Ross Eisenberg, vice president of energy and resources policy at the National Association of Manufacturers, wrote on the group's blog.

Also on board were members of Congress who have introduced legislation to push back implementation of the 2015 standard even further.

"Clean air is critically important, but we need to get this right," Rep. Pete Olson (R-Texas) said in a statement. Olson is the lead sponsor of H.R. 806, which would postpone attainment designations until 2025. His bill, awaiting action by the House Energy and Commerce Committee, is still needed, he added.

Ozone forms when nitrogen oxides and volatile organic compounds combine in sunlight. Key sources of those "precursor" chemicals are motor vehicles, coal-fired power plants and refineries. In opting to tighten the standard to 70 ppb in October 2015, then-EPA Administrator Gina McCarthy cited the need to protect public health, based on the latest research on ozone's effects.

Her decision was challenged in a battery of competing lawsuits brought by industry trade groups, states and environmental organizations on the grounds that it was either needlessly strict or unlawfully weak.

At the Trump administration's request, the U.S. Court of Appeals for the District of Columbia Circuit froze action on the consolidated litigation in April to give EPA officials the chance to reconsider their position. That review is continuing.

In his letter, Pruitt cited the review as another factor in the decision to delay implementation. In his prior job as Oklahoma attorney general, Pruitt, a Republican, had been among the challengers to the 70 ppb standard. While now recused from involvement in the lawsuit, he remains involved in administrative rulemaking activities.

## **Legal deadlines**

Under the Clean Air Act, EPA is generally supposed to make attainment decisions within two years after a new air quality standard is set.

Although the law allows for a year's extension when there is "insufficient information," that doesn't appear to be the case on ozone, said Janet McCabe, who served as EPA's acting air chief during the final years of the Obama administration, in an email this morning.

"There are numerous areas around the country where data from 2014-2016 show that millions of people are breathing unhealthy air and the states (which are responsible for protecting their citizens from unhealthy air) have made recommendations for those designations," McCabe wrote.

During his Senate confirmation hearing, Pruitt had given no indication of how he would proceed with implementation of the 2015 standard.

And since taking over as EPA administrator in February, he had also made no formal announcement that he was mulling a delay in the implementation timetable. It was not immediately clear whether EPA career employees were involved in the decision.

Steve Page, director of EPA's Office of Air Quality Planning and Standards in Research Triangle Park, N.C., was out of the office today on travel, according to an employee who referred questions to the agency's press office. A spokeswoman there didn't reply to emails sent late yesterday and this morning seeking an interview with Pruitt and answers to a half-dozen written questions, such as who is on the ozone task force and whether Pruitt had consulted with lawyers in EPA's Office of General Counsel.

Kevin Minoli, who is listed on EPA's website as acting general counsel, could not be reached this morning.

Pruitt's letter also alludes to concerns raised by industry groups and some scientists about the effect of naturally occurring "background ozone," or ozone originating from foreign sources, on states' ability to comply. EPA is "evaluating those issues," he said, with a focus on fully understanding them.

Another complication cited by critics of the 2015 standard was EPA's slow issuance of implementation guidance for the 2008 threshold.

That guidance came out in March 2015, seven months before the agency tightened the standard and prompted complaints that states will have to juggle compliance with the two benchmarks.

"We are hopeful that EPA will also be able to address the overlap with the 2008 standards and reform the implementation process to provide greater regulatory certainty to state air-quality agencies and businesses alike," the American Chemistry Council said in a statement this morning.

## **OTC Warns Designations Delay Will Stop 'Momentum' On Reducing Ozone**

### **Inside EPA**

SARATOGA SPRINGS, NY -- Members of the Ozone Transport Commission (OTC) of Northeast and Mid-Atlantic states are warning that early data show 2017 ozone levels are worsening and that EPA's one-year delay for implementing the 2015 ozone ambient air limit risks stopping the states' "momentum" on tackling ozone air pollution.

Anne Gobin, air director for Connecticut, said at the OTC's spring meeting here June 6 that she opposed any delay in implementation of the 2015 ozone standard, which she said would not be good for public health.

OTC Executive Director Dave Foerter said "we have a momentum" on meeting the 2015 ozone national ambient air quality standard (NAAQS) of 70 parts per billion (ppb) and the weaker 2008 ozone limit of 75 ppb. EPA "putting a pause on things doesn't work very well" for those efforts, he warned. That momentum could be hampered by the agency's delay announced June 6, and because of a looming potential bad year for ozone levels.

The latest OTC computer modeling presented at the meeting suggests several OTC areas, including Connecticut, New York City and Maryland will fail to meet even the more lenient 75 ppb NAAQS by 2023, and that these states plus New Jersey will also fail to meet the 2015 NAAQS in 2020. States can face the ultimate threat of having their federal highway funds withheld if they fail to come into attainment with federal air standards.

Much of the air pollution responsible comes from outside the OTC area, making swift implementation of ozone standards essential to the OTC member states. And 2017 looks set to be a bad year for ozone in the region, according to monitoring results and weather predictions for the summer, OTC projections show.

The OTC members discussed the one-year delay of designations for areas as either attaining or in nonattainment for the 2015 standards as a potential future action because EPA had not announced it. The designations are critical because once they are issued it triggers the air law mandate for states to craft ozone reduction plans.

Mike Koerber of EPA's Office of Air Quality Planning & Standards said at the meeting that no decision had been made on a one-year delay. "We have not said we are doing that" and no decision on it has been taken but "it is on the table," Koerber said. The move would be legal if EPA lacks sufficient data to make a determination on attainment for a given area, he said. Koerber said the Trump administration is taking a "very deliberative approach."

Just hours later EPA issued a press release announcing that agency Administrator Scott Pruitt is delaying by one year -- from Oct. 1 this year to Oct. 1, 2018 -- the deadline for issuing designations for whether areas are in attainment or nonattainment with the 2015 NAAQS because he has "insufficient information."

## **Designations Delay**

In [a June 6 letter](#) to Arizona Gov. Doug Ducey (R), Pruitt says the extra year will give EPA more time to collect "the most recent air quality data" to make the designations.

He also said that the additional time will allow the agency to conduct its [previously announced review](#) of the Obama EPA's decision to tighten the ozone limit in 2015. As part of that review, EPA will consider issues such as the role of naturally occurring "background" ozone in affecting states' ozone levels, "appropriately accounting" for ozone transported internationally, and considering the role of "exceptional events" such as uncontrollable and unplanned dust winds or wild fires that can affect a states' overall ozone air pollution.

Pruitt also says that, in line with language in the fiscal year 2017 omnibus funding law, he is establishing an Ozone Cooperative Compliance Task Force to "develop additional flexibilities for states to comply with the ozone standard," arguing that costs of compliance with the standard have "significantly increased."

In a press release announcing the one-year designations delay, Pruitt said, "We share the goal of clean air, a robust economy and stronger, healthier communities. We are committed to working with states and local officials to effectively implement the ozone standard in a manner that is supportive of air quality improvement efforts without interfering with local decisions or impeding economic growth."

The letter to Ducey claims that since 1980, total emissions of the six criteria pollutants regulated under the NAAQS program have dropped 63 percent and ozone specifically by 33 percent.

Republican lawmakers and some industry groups have criticized the situation under which states must take steps to comply with the standard and the 2008 NAAQS of 75 ppb at the same time. Many oppose the 70 ppb standard as needlessly tough or even unattainable, threatening to throw areas into nonattainment, a status that requires them to impose costly pollution controls on industry or face the ultimate sanction of losing federal highway dollars. Many further complain about the administrative burden of meeting two standards at once.

That concern prompted the FY17 law language, and various bills have been introduced in the House and Senate aiming to delay implementation of the 2015 ozone NAAQS, lengthen the NAAQS implementation cycle from five to 10 years, allow EPA to consider technical feasibility of implementation, and other measures.

### **Ozone Pollution**

But OTC members at the spring meeting made clear that 2017 could see increases in ozone pollution levels, and that more work needs to be done to bring overall ozone levels down.

OTC at its meeting issued a formal statement opposing the GOP legislation targeting the ozone NAAQS, specifically S. 263, S. 452 and H.R. 806. All three of these bills, if enacted, "will postpone the substantial public health and environmental benefits offered by the 2015 NAAQS for almost a decade," the group says.

Ali Mirzakhaili, air director for Delaware, said he found it difficult to reconcile the administration's actions on a range of environmental programs with its professed focus on attaining ozone and other air quality standards.

He "pushed back a little" on the "narrative" driving GOP bills to soften implementation of the ozone NAAQS or an administrative delay, which holds that it is somehow unreasonable for the 2008 and 2015 ozone NAAQS to co-exist. "It is the same pollutant," and if you reduce the precursors, you reduce ozone, he said.

Maryland air director George 'Tad' Aburn said that while great progress is being made in reducing ozone regionally, "we are missing the daily or episodic part of the problem." OTC states have long complained that certain upwind power plants that they cannot regulate but which are contributing to ozone problems downwind are not running their pollution controls on hot days already conducive to ozone pollution, so far to no avail.

Under emissions trading established by EPA's Cross-State Air Pollution Rule (CSAPR) nitrogen oxides (NOx) and sulfur dioxide trading program, power plants can legally buy NOx allowances rather than running their controls on such hot days. If NOx allowances are too cheap, plants have no incentive to run controls.

The Obama EPA's 2016 "update" to the CSAPR rule was intended in part to address this problem, reducing emissions caps on ozone-forming NOx for states and driving up allowance prices.

While OTC figures show that allowance prices have ticked up, they have not yet reached the \$800 per ton level that the group believes represents the cost of running controls such as selective catalytic reduction.

## **CSAPR Revision**

EPA staff at the meeting said there are currently no plans for another revision to CSAPR, which even in its updated form does not fully ensure compliance with the 2008 ozone NAAQS and does not address the tougher 2015 NAAQS. EPA issued a notice of data availability (NODA) early this year with some calculations showing which areas “contribute significantly” to pollution in other states, which states could use in writing their NAAQS compliance plans. The agency is now sifting through extensive public comment on that, EPA staff said.

EPA's Reid Harvey, head of Clean Air Markets, noted that the agency's CSAPR update rule is now in effect, and EPA continues to work on its technical implementation, including conversion of banked NOx allowances from the old program to the new one. “We believe implementation of this rule is feasible,” he said.

But he also noted ongoing litigation against the rule brought by states and industry in the U.S. Court of Appeals for the District of Columbia Circuit, in *State of Wisconsin, et al. v. EPA, et al.* While EPA has halted lawsuits over other clean air matters, including the 2015 NAAQS, *State of Wisconsin* is still scheduled for briefing, with EPA's brief due in November and oral argument not likely until after January 2018, Harvey noted. -- *Stuart Parker* ([sparker@iwpnews.com](mailto:sparker@iwpnews.com))

## **CSS**

[The EPA's Inspector General Is Probing Whether An Agency Staffer Colluded With Monsanto](#) [HuffPost](#)

[Trump's EPA Actually Seems To Be Doing A Pretty Good Job Regulating New Chemicals](#) [HuffPost](#)

[Can EPA 'restore science and common sense' to neonicotinoid insecticide regulations?](#) [Genetic Literacy Project](#)

[EPA's Pruitt vows to clear chemical backlog before August](#) [Washington Examiner](#)

[Pace and outcomes of EPA new chemical reviews appear to be on track](#) [Environmental Defense Fund](#)

[Another tragic death — time for EPA to ban high-risk chemical paint strippers](#) [Environmental Defense Fund](#)

[Environmentalists cite HUD guide in bid to boost EPA lead dust suit](#) [Inside EPA](#)

June 7, 2017 -- 9:00 AM

Environmentalists say recent U.S. Department of Housing and Urban Development (HUD) guidance setting stricter standards for addressing lead dust hazards boosts their arguments in an appellate case set for oral argument June 12 in which the groups are seeking to force EPA to update its lead hazard standards for dust and soil.

Just a week prior to oral argument, the Sierra Club and a host of other groups filed a citation of supplemental authorities with the U.S. Court of Appeals for the 9th Circuit, asking the court to consider HUD's guidance that sets stricter dust-lead hazard action levels for floors and window sills.

The 9th Circuit is weighing a petition for writ of mandamus, filed by eight environmental, community and equity groups last August. The groups want EPA to update its dust-lead standards as well as the definition of lead-based paint under the Toxic Substances Control Act (TSCA). They are requesting an order that would require EPA to issue a proposed update to the rule within 90 days of the order, and a final rule within six months.

The groups in their petition argue that EPA has delayed a rulemaking that, in 2009, it agreed to promulgate, and that its delay comes despite "scientific consensus about the irreversible and significant harms caused by low-level lead exposure." They contend the inaction is putting children, particularly in low-income communities and communities of color, at risk of harm caused by lead in dust and paint in homes and daycares.

In a cover letter with their June 5 supplemental authorities citation, the groups point out that the HUD guidance, issued after the filing of their reply brief earlier this year, "adopts dust-lead hazard action levels that are in line with those requested by Petitioners in their 2009 rulemaking petition to [EPA], which is at the center of this mandamus action.

"The HUD Guidance is therefore directly relevant to whether EPA's delay in promulgating the requested rulemaking, in order to gather scientific evidence, is unreasonable."

The groups note that the guidance "lowers applicable dust-lead hazard action levels to 10 [micrograms per square foot (ug/ft<sup>2</sup>)] or less for floors and 100 ug/ft<sup>2</sup> or less for window sills."

The citation includes the new HUD guidance, which says as of April 17, grantees of its lead-based paint hazard control and lead hazard reduction programs must use the more stringent lead dust hazard and clearance action levels, or lower levels if required by state regulations. The guidance applies to grantees conducting lead-based paint hazard risk assessments and those clearing units following an intervention, the guidance says.

"This requirement is supported by scientific evidence on the adverse effects of lead exposure at any measurable blood-lead level in children as well as the evidence on the feasibility of lower clearance levels being routinely achieved by lead hazard control programs," the guidance says.

EPA has objected to the mandamus petition. In a brief filed on behalf of EPA in January, the Justice Department (DOJ) argues the mandamus petition should be denied, saying the agency "has no duty, statutory or otherwise, to promulgate a rule revising the dust-lead hazard standards and the definition of lead-based paint."

Additionally, ordering the agency to work on this issue would limit EPA's ability and discretion to complete other pending rulemakings and regulatory actions that have clear deadlines and also involve

"weighty public health considerations," DOJ says.

## **HHRA**

California, 6 other states sue EPA over farm pesticide SFGate

Expert: EPA flip-flop leaves children at risk from widely used pesticide - Michigan Radio

Seven States Challenge Trump EPA Decision Approving Brain-damaging Pesticide - Center for Biological Diversity (press release)

7 States Give Pruitt an "F" in Science, Challenge EPA Over Pesticide That Harms Children Union of Concerned Scientists (blog)

7 states challenge Trump's EPA for ignoring science, failing to ban pesticide linked to brain damage - ThinkProgress

Seven States Sue EPA for Failure to Regulate Pesticide - Pacific Standard

7 States Challenge Trump EPA Over Toxic Pesticide - EcoWatch

Maryland's Frosh, six other attorneys general accuse EPA of ignoring science on safety of pesticide - Baltimore Sun

States to Pruitt: Don't Reverse Course on Dow Insect-Killer Daily Environment Report

Seven states want the EPA to ban most uses of the pesticide chlorpyrifos, challenging the agency's decision not to further regulate the chemical.

Attorneys general for California, Maine, Maryland, Massachusetts, New York, Vermont, and Washington filed objections June 5 asking Environmental Protection Agency Administrator Scott Pruitt to make a safety determination on the use of chlorpyrifos.

Pruitt on March 29 declined to further regulate the insect-killer, which is linked to neurodevelopmental effects, until Oct. 1, 2022. The move was a U-turn from the EPA's work to revoke the legal tolerances for the pesticide on food under President Barack Obama. In November 2016, two months before Obama left the White House, the EPA released a scientific assessment indicating that levels of chlorpyrifos on most food crops exceeded the legal safety standard. A year earlier, the agency proposed a ban, but didn't finalize the move before the new administration came in.

In their appeal, the states argue that a strong federal policy on pesticides is necessary given the nationwide distribution of the food system.

“Action by the states to curtail human exposure would not be fully effective, given the national markets for foods,” the document said. “The states have a strong interest in assuring appropriate federal regulatory action, including a final decision by the administrator about whether existing chlorpyrifos food tolerances are safe and may remain in effect.”

The administrative appeal from the states follows similar objections filed June 5 by a coalition of environmental and farmworker advocacy groups. The filing challenges Pruitt's order, detailing the scientific and legal justification for a ban. Separately, the organizations filed a lawsuit challenging the EPA's denial in the U.S. Court of Appeals for the Ninth Circuit (*LULAC v. Pruitt*, 9th Cir., 17-71636, 6/5/17).

The agency struck a deal with manufacturers in 2000 to suspend indoor uses of the chemical, such as in roach and ant baits. But environmental organizations said the move did not go far enough to protect rural and farmworker communities, and the Natural Resources Defense Council and Pesticide Action Network petitioned the EPA in 2007 to revoke uses of the insecticide for food crops.

After a seven year delay, the organizations sued the EPA in 2014 in the Ninth Circuit.

Dow Agrosiences, the original maker of chlorpyrifos, has criticized the science used to justify restrictions, saying the EPA depended on unreliable studies to propose a ban on the pesticide.

## **SHC**

How climate change helped Lyme disease invade America. Vox.

For Polluted Communities, Data Drives Action; Will Trump Listen? Daily Environment Report

Flint, Mich., residents held protests and spoke out at town halls for months about their brown, foul-smelling drinking water. But it took a university and a pediatrician's tests of the water and children's blood lead levels before the crisis spurred government action.

“We substantiated what Flint residents had been screaming for months and put it on the internet for the world to see,” Siddhartha Roy, one of the graduate students at Virginia Polytechnic Institute and State University that tested Flint's water, said in a November 2016 [TED Talk](#).

Environmental justice advocates for decades have sought data to back up their anecdotal experience with pollution in their communities, both on a national and local level. But as data become more readily available, they face a new administration that may not give that information the same weight. The Environmental Protection Agency's central environmental justice office—established by President George H.W. Bush—would be eliminated under President Donald Trump's [proposed budget](#) and placed within the EPA's Office of the Administrator.

With the EPA scaling back its work across the board, states and communities are expected to continue their own work on these issues. In some ways, the new administration and state-of-play in Washington on the whole has placed the onus to lead back “on our shoulders,” Robert Bullard, who has been called the father of the environmental justice movement, told Bloomberg BNA.

“It would be unrealistic to expect the government to lead the charge in addressing environmental and health inequities around the country,” Bullard, a professor at Texas Southern University, said.



The EPA didn't respond to Bloomberg BNA's requests for comment. The National Association of Manufacturers, whose staff have served on an EPA environmental justice advisory council and signed letters on behalf of the Business Network for Environmental Justice, also didn't respond to Bloomberg BNA's requests for comment.

### **Will a Trump EPA Trump Data?**

With EPA Administrator Scott Pruitt questioning how much humans contribute to climate change, some environmental justice advocates are worried that data isn't holding the same weight in decision-making.

"There are too many people in this administration that are denying that climate change is real and is linked to human causes. Data is not being taken seriously," Paul Mohai, a University of Michigan professor who looks at environmental-justice issues, told Bloomberg BNA. "What I'm hopeful of is that there are people in the administration that can be persuaded."

The agency's recent decision not to limit the use of the pesticide chlorpyrifos didn't help assuage those concerns. Chlorpyrifos is used to protect fruit, vegetables, and other crops, but environmentalists say studies show its use has been linked to neurodevelopmental delays in children.

"I naively thought that the fact that we had really strong health and environment data" would matter, Lisa Garcia, a former senior environmental justice adviser to the EPA administrator under the Obama administration and now vice president of litigation for healthy communities at Earthjustice, told Bloomberg BNA. "I thought that this administration wouldn't be so ready to disregard it ... Now, I think that this administration is truly being guided by profit, industry, and politics."

Many also expressed concerns that environmental pollution data advocates and academics use to better understand these issues on community or national levels will disappear or not be updated.

For example, some advocates fear legislation (H.R. 482/S. 103) introduced this Congress by Rep. Paul Gosar (R-Ariz.) and Sen. Mike Lee (R-Utah), which would bar the federal government from building and maintaining a database on racial disparities in affordable housing access, may be a first step toward limiting collection of other data relating to racial inequalities.

A spokesman for Lee told Bloomberg BNA in an email that "we are very much willing to limit the language of the bill" to apply only to affordable housing.

Environmental justice advocates have long relied upon national data to demonstrate a pattern of racial disparities of people who live near large sources of pollution. In 1987, the United Church of Christ's Commission for Racial Justice finished a landmark [report](#), Toxic Wastes and Race in the United States, that for the first time looked for a national pattern. They found that race is the most significant predictor of whether there are commercial hazardous waste facilities or how many of those facilities there are in a U.S. community. It was the first time communities had used data to validate their concerns on a national basis, justice experts said.

Within five years, the report garnered enough attention to get an environmental justice office at the EPA. Within seven years, President Bill Clinton issued an [executive order](#) (E.O. 12898) on the issue. Since then, states, legislatures, academics, and others have expanded the means to collect and harness data on what pollution is actually in communities and across the country.

### **No Changes to Data Availability Yet**

Still, as much as they are bracing for potential problems, they haven't seen any yet when it comes to

data availability as much as they are bracing for potential problems, they haven't seen any yet when it comes to data availability. However, there haven't been changes yet. While an industry source who requested anonymity to speak freely said it's unlikely that there would be "bold new initiatives" started by the EPA, the administration would not want to compromise existing data or halt those efforts.

Alexandra Dunn, executive director of the Environmental Council of the States, said the administration has continued a commitment to environmental justice. For example, it held its National Environmental Justice Advisory Council meeting in April and is leaving EJSCREEN, a federal mapping tool that uses environmental and census data to identify potentially overburdened communities, in place. Even if the justice office was re-organized, that doesn't mean those efforts would go away, she said.

"States are not as troubled by reorganization, if it's designed to get more effective results," Dunn told Bloomberg BNA.

Unless collection is required by law, advocates would face a tough legal battle trying to force the Trump administration to keep justice-related data up-to-date, Gerald Torres, the Jane M.G. Foster Professor of Law at Cornell University, told Bloomberg BNA.

But if the administration makes decisions affecting overburdened populations, for example, on permitting or state implementation plans, there could be lawsuits under the Administrative Procedure Act, Torres said.

### **How Data's Collection and Use Has Evolved**

Data have been integral to how states, the federal government, and business decide to address these issues. But the rise of the Internet, advancement of technology, and other developments have allowed federal and state regulators, academics, and others to do even more with that data.

For example, under the Obama administration's EPA environmental justice strategies, the EPA conducted a landmark environmental justice-specific analysis of a rule defining what materials are solid wastes (RIN:2050-AG62) released in 2015. The [analysis](#) looked at what kind of hazards could be posed and who would be impacted.

And its regional offices also intended to use the EJSCREEN tool to determine whether environmental justice communities will likely be affected when reviewing permit applications and flag those areas for the regions to thoroughly review during its actual analysis.

On the state side, California offers another venue to look at the data trajectory in government for these issues when a legislature is on board.

The state has harnessed the state's CalEnviroScreen tool, one that serves a similar purpose but preceded the EPA's EJSCREEN tool, to identify overburdened communities to receive revenues under its cap-and-trade program. And the state's hazardous waste permitting agency was required to consider establishing or updating its regulations to assess what other environmental and health burdens exist in a given community—a task that could harness CalEnviroScreen as well.

Newer research, such as the 2007 Toxic Wastes and Race at Twenty: 1987-2007 [report](#), has offered greater validation through more extensive research methods to verify these facts and to expand the knowledge about the causes and impacts of disproportionate pollution burdens. The 2007 report found that roughly 9.2 million people are estimated to live within 1.8 miles of a commercial hazardous waste facility, with more than 5.1 million people of color living in a community with one or more of those facilities.

And, in general, technology advancements have allowed for more monitoring devices to better determine air quality in a given community, whether used by citizens, regulators or industry. Data sets such as the Toxics Release Inventory and EJSCREEN are now available for use online at will as well.

### **Efforts Not Expected to Halt Elsewhere**

Regardless of what the Trump administration does with its own justice data efforts, states, academics, and advocates are expected to continue their own work. Outside groups, such as justice advocates and environmental groups, see other opportunities for using data to validate environmental justice claims.

For example, communities and academics have increasingly partnered together to identify, understand and raise awareness health and pollution disparities and can continue to expand these efforts, Sacoby Wilson, an environmental health professor at the University of Maryland, told Bloomberg BNA.

Academics and states say they're working in particular on efforts to correlate health and environmental pollution data. State environmental regulators are also working to collaborate more with their public health colleagues to look at intersections between pollution and health data trends and information, Dunn said.

Through these efforts, states could look at health problems in a community and consider whether environmental pollution is contributing to those problems or start assessing whether pollution is causing health issues. States have also been working the EPA on the agency's Community-Focused Exposure and Risk Screening Tool (C-FERST), which combines public health and environmental data to look at pollution, risk, and exposure reductions.

This intersection is also a newer frontier for academics, at least on a national scale.

Looking at correlations between health problems and environmental pollution on a national scale can be especially challenging for researchers because uniform health data can be harder to obtain, Mohai, one of the lead author on the Toxic Wastes and Race at Twenty report, said. It's also challenging to look at correlations in this area because, for example, people move and a number of factors could cause any given health outcome, he said.

"It's one of the things that's made the Flint water crisis stand out—that nobody's disputing any more that the children were affected by the contaminated water," Mohai said. "Detroit residents can complain about asthma or cancer, but how do you know what caused it? But in the Flint water crisis, nobody can argue that the lead exposure did not come from the water. In that case, it was a lot easier to link those health outcomes with the contaminated water

## **SSWR**

### **HYDRAULIC FRACTURING Budget cuts rip into USGS impact research** **Energywire**

On the surface, the Interior Department's efforts to study the environmental impacts of unconventional oil and gas development appear to have survived the Trump administration's massive budget cuts.

"As demands for energy and mineral resources grow, USGS research and assessments become

increasingly critical to understand the occurrence, quality, supply, and use of national and global resources," according to the U.S. Geological Survey's fiscal 2018 [budget justification](#).

Just how robust that research will be remains unclear.

The Trump administration proposed a \$922 million budget for Geological Survey programs, \$138 million below the 2017 continuing resolution baseline. The proposal includes \$74.4 million for the Energy and Minerals Mission Area, a \$1.5 million increase.

But that bump is the result of a funding transfer for carbon sequestration research. Effectively, the mission area's two arms, the Energy Resources Program (ERP) and the Mineral Resources Program (MRP), would receive 2 percent less funding in the next fiscal year, said Murray Hitzman, associate director of Energy and Minerals.

How will those cuts affect USGS's ability to study hydraulic fracturing impacts?

"We're still trying to figure that out," he said.

Until this month, Hitzman led a [multiagency research collaborative](#) including Interior, U.S. EPA and the Energy Department to study unconventional oil and gas development.

Leadership this month shifted to EPA, where the Trump administration has proposed trimming the budget by 30 percent. According to an agency spokeswoman, EPA received its last oil and gas research appropriation — \$3 million to study development in the Appalachian Basin — in fiscal 2016 ([Energywire](#), Feb. 15).

As part of the research collaboration, USGS is charged with measuring fracking's impact on air and water quality and human health.

The steepest reduction to the agency's fracking research capabilities comes in the form of a 20 percent cut to the agency's Environmental Health Mission Area. One of the mission area's divisions last year found a "definitive link" between water quality impacts and deep well injection of oil and gas wastewater ([Energywire](#), May 11, 2016).

That study was guided by the multiagency collaboration, USGS hydrologist Isabelle Cozzarelli said late last year. How that strategy could change under President Trump is "a big unknown," she said at the time ([Energywire](#), Dec. 13, 2016).

"We currently plan to continue much of the work we do as part of the multiagency collaboration (energy assessments, water studies, etc.)," USGS spokesman Alex Demas wrote last week in an email to E&E News. "Unfortunately, because it's a multiagency collaboration and therefore depends on the budget situations of three different departments, it's too early right now for me to be able to tell you with any certainty or clarity how the whole collaboration will work."

### **Energy and minerals**

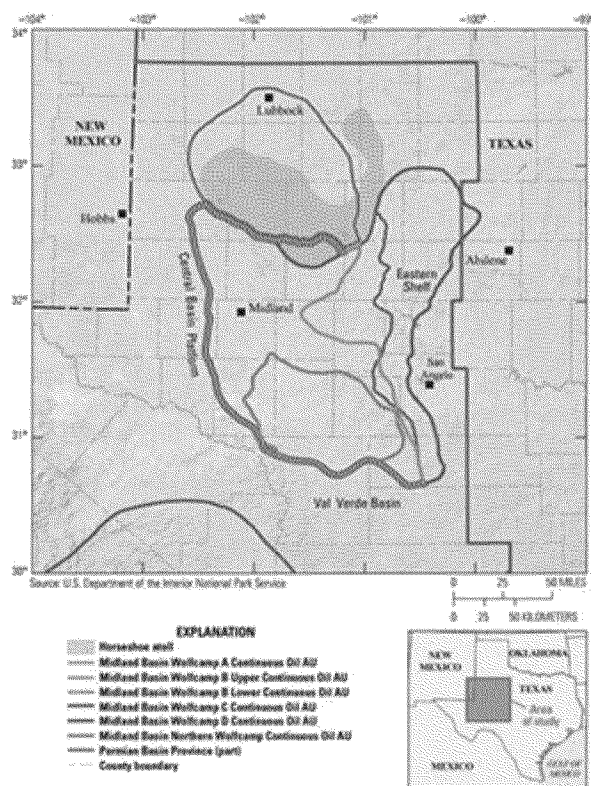
The Energy and Minerals Mission Area's primary oil and gas work is centered on resource assessments, such as the analysis last year that found 20 billion barrels of oil and 16 trillion cubic feet of natural gas in Texas' Wolfcamp Shale ([Energywire](#), Nov. 16, 2016).

A \$644,000 reduction to MRP and a \$290,000 cut to ERP reduce the agency's ability to conduct those studies, according to USGS's budget justification.

Among ERP's strategic actions for 2018 is a plan to "release USGS assessments of undiscovered, technically recoverable oil and gas resources in U.S. and non-U.S. basins," the document shows.

ERP is also funding research on the extent to which fracking is polluting groundwater in U.S. shale plays. Last week, a group of researchers wrote that they did not find evidence that extraction is currently a primary contributor to drinking water contamination ([\*Energywire\*](#), June 1).

Industry pointed to Tuesday's [paper](#) as evidence that federal research on fracking has reached its limit.



**[+]** USGS last year released its largest-ever estimate of continuous oil in the Permian Basin's Wolfcamp Shale. The Energy Resources Program, which conducted the assessment, would field an effective reduction under the proposed budget. Department of the Interior/National Park Service

"Hydraulic fracturing is safe, and the science on fracking's alleged drinking water impacts has been settled for some time," said Neal Kirby, spokesman for the Independent Petroleum Association of America. "We believe the research into the safety of hydraulic fracturing has been done, and no more American taxpayer dollars are needed to research the issue further."

Tuesday's study focused on a limited number of wells in southern shale formations and acknowledged it may take decades to fully understand fracking's effect on drinking water.

"In the past, it's been our experience that research can often lead to regulation," Kirby said. "We believe the states and private industry are in the best position to research and address these issues as they

arise."

The Sierra Club cast a critical eye on the study — one of the first on fracking released by Trump's USGS.

"This slapdash report seems to be part of a troubling trend from this administration of attempting to erase science that is inconvenient for their friends in the fossil fuel industry," said Kelly Martin, deputy director of the Beyond Dirty Fuels campaign. "Whatever the claims made by this flawed and incomplete report, two things are clear: Donald Trump's dangerous beliefs have no place in government science, and fracking has no place in our communities."

Athan Manuel, director of the club's lands protection program, said environmentalists are watching USGS's findings moving forward.

"We want to be open-minded and read the research and see what it says, but we definitely assume the worst from this administration," he said.

If fracking is going to occur, its impacts should be studied by fact- and science-based entities like USGS, Manuel said. Shrinking the agency's budget — which is still subject to congressional approval — is a puzzling decision, he said.

"USGS does a lot with a little bit of money, and this is not the place we should be cutting," he said.

### **Environmental health**

A \$4.3 million reduction to Environmental Health would push the mission area's focus to oil and gas, said Associate Director Geoff Plumlee.

"With the proposed budget, many different aspects of the USGS had to make a lot of tough decisions on what our core mission is," he said.

Plumlee's team could roll back studies of subsurface contaminant transport near known chemical spills and scale back work on legacy environmental pollutants.

If the proposed budget is approved, staff and resources would be rededicated to fracking science, Plumlee said.

"The main thing is that unconventional oil and gas remains a high priority for us," he said.

The mission area's Toxic Substances Hydrology Program has led research to understand how a brine spill in a North Dakota stream could be persisting in sediments, water and organisms.

If USGS steps back on its obligations on that project, state agencies could attempt to step in, said David Glatt, chief of environmental health for the North Dakota Department of Health.

"By putting our budgets together, we can come up with the information we need," he said. "It's really going to be critical that we prioritize and work together on what needs to be done."

No matter the president, proposed budgets are generally deemed dead on arrival in Congress, Glatt said.

He hopes lawmakers are able to swiftly decide on funding priorities for the coming fiscal year.

## ***Science and Science Communication***

Scientists: Trump Lied About Our Global Warming Research - Patheos (blog)

Trump Ignites Climate Pledges with Paris Withdrawal Scientific American

Four ways the NY Times has undermined its own climate coverage Media Matters for America (blog)

### **Politico's Morning Energy**

**CLARK PICK FOR TOP DOJ ENVIRONMENTAL JOB:** Trump has selected veteran Washington attorney Jeffrey Bossert Clark to run DOJ's Environment and Natural Resources Division, Pro's Alex Guillén [reports](#). Clark is involved in the lawsuits challenging EPA's Clean Power Plan and will likely have to recuse himself from that ongoing litigation, if confirmed. He's been a partner at Kirkland & Ellis since 1996, except between 2001 to 2005, when he was the deputy assistant attorney for ENRD.

**Blast from the past:** Clark has been involved in some other key litigation in recent years. He represented the Alliance of Automobile Manufacturers and National Automobile Dealers Association in lawsuits challenging EPA's 2009 decision to reject a waiver to set more stringent vehicle emissions standards than the federal level. The Obama administration later reversed course and granted that waiver to California, but the Trump administration now is weighing whether to revoke it, a contentious issue. Clark also represented the U.S. Chamber of Commerce in challenges to EPA's greenhouse gas endangerment finding and several early climate rules. And he represented ethanol group Growth Energy in successfully fending off oil industry challenges to an early EPA Renewable Fuel Standard rule.

**Also:** If you were thinking about protesting his confirmation hearing, Clark is on record as not being a huge fan of protesters who step over the line. In a 1986 [piece](#) in the Harvard Crimson, where according to his LinkedIn profile he was editorial page editor, Clark argued that the school "justly" prosecuted political protesters because they "obstructed freedom of movement and violated trespassing laws."

Trump plans to nominate former Bush official to lead DOJ's ENRD Inside EPA

June 6, 2017 -- 6:26 PM

President Donald Trump has announced his intent to nominate a former George W. Bush Department of Justice (DOJ) official -- who later represented the U.S. Chamber of Commerce in a suit targeting the Obama EPA's early greenhouse gas rules -- to head DOJ's Environment and Natural Resources Division (ENRD).

The White House on May 6 announced the president's intent to nominate Jeffrey Bossert Clark, currently with the law firm Kirkland & Ellis. "He is a complex trial and appellate litigator with especially deep experience in administrative law, cutting across dozens of statutes and numerous agencies," says the White House.

Clark has been with the firm since 1996 except for his time serving in the Bush DOJ from 2001 to 2005, where he was the deputy assistant attorney general within ENRD.

In that role he oversaw an appellate section of 50 lawyers and staff and "reviewed, edited, or contributed to virtually every brief the Environment Division of the Department of Justice filed in the Courts of Appeals, including several cases of exceptional significance he personally briefed and argued. He also worked on every Supreme Court environmental or natural resource case during this same period," according to the White House.

But his work on behalf of industry groups could provide material for Democratic critics of the Trump administration's position on environmental issues including climate change.

For example, Clark represented the U.S. Chamber of Commerce and others at [oral argument in February 2012](#) in litigation over Obama-era climate rules including its finding that GHGs endanger public health and a welfare and a "tailoring" rule intended to limit Clean Air Act permits subject to GHG limits.

At argument, Clark faced push-back from several appellate judges over arguments he made against EPA having a broad duty to regulate GHGs under the air law.

For example, Judge David Tatel questioned Clark over arguments laid out in briefing that EPA did not fully consider adaptation as an alternative to stationary source rules that could, for example, result in populations shifting north. "How can EPA possibly account for that possibility?" he asked.

Tatel compared such a requirement to forcing EPA to consider in its regulations to limit cancer-causing emissions the fact that one day a cure for cancer may be discovered.

Clark also suggested that the landmark 2007 Supreme Court ruling in *Massachusetts v. EPA*, which said the agency can regulate GHGs under the Clean Air Act, ordered EPA to look beyond the science to the policy implications of its endangerment finding. But Tatel strongly disagreed. "We're bound by that decision," he said.

Then-Chief Judge David Sentelle also noted that Clark's arguments sounded more like the dissenting opinion in *Massachusetts* written by former Justice Antonin Scalia rather than the majority holding.

On other regulatory issues, Clark at [a June 2010 event](#) sponsored by the conservative Federalist Society argued that Congress has abdicated its responsibility to decide when cost-benefit should be used in regulations, leaving courts to struggle with the question. To solve this uncertainty, Congress should enact a "clear statement" rule that says if a law is silent on the issue, cost-benefit should be assumed to apply.

"Why shouldn't there be a clear statement rule for cost benefit analysis that essentially says that if Congress doesn't make clear how to treat cost benefit analysis that agencies should be required to do it. That would make it judicially reviewable and that would solve this abdication problem," he said.



## **POLLINATORS: As Karen Pence touts backyard beehive, greens decry USDA cuts** **E&E News PM**

The Trump administration may not be offering new money for pollinator protection, but it is giving bees a new home: Vice President Mike Pence's yard.

Second lady Karen Pence joined Agriculture Secretary Sonny Perdue at the U.S. Naval Observatory in Washington today to note the placement of a beehive there, as Perdue designated the week of June 19-25 as "National Pollinator Week" and urged people to stand up for bees and butterflies.

"All types of pollinators, such as bees, butterflies, birds and bats, are critical to providing our nation's food, fiber, fuel and medicine," Karen Pence said in a news release. "However, our beekeepers have been losing colonies for many years. This presents a serious challenge to our ability to produce many of the agricultural products that we enjoy today."

Perdue touted the Agriculture Department's efforts on behalf of protecting pollinators, which the department said add \$15 billion a year in value to crops by increasing yields and ensuring "superior-quality" harvests.

"The problem represents a diverse mix of challenges requiring a wide range of solutions. And at USDA we are leading the way in research to help out our pollinator friends," Perdue said.

In taking on a hive, the Pences are following past practice. Karen Pence installed a beehive in the Indiana governor's residence in 2014, when Mike Pence served as the state's governor, the White House said in news release. She said more than 80 percent of the land in Indiana is dedicated to agriculture, and its crops depend on pollinators.

An environmental group pushing pollinator protection, Friends of the Earth, found irony in the administration promoting bees while it proposes cuts to programs that help them. Perdue's department would take a 26 percent cut to the Agricultural Research Service, closing 17 labs that perform research on honeybee declines and other issues, said Tiffany Finck-Haynes, food futures campaigner for the organization.

"They are definitely not putting their money where their mouths are," Finck-Haynes said, adding that some facilities are already slowing down their work in anticipation of possible cuts. "They're already suspending some of those labs."

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